Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands	)	WT Docket No. 06-150
	)	
Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules	)	WT Docket No. 06-169
	)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band	)	PS Docket No. 06-229
	)	
Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010	)	WT Docket No. 96-86

COMMENTS OF THE

ASSOCIATION OF PUBLIC-SAFETY COMMUNICATIONS OFFICIALS-INTERNATIONAL, INC. (APCO)

May 23, 2007

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SUMMARY

APCO supports efforts to promote the development of a national public safety broadband network. However, the Commission should also provide for the limited deployment of wideband networks where appropriate. To the extent that the Commission adopts a band plan that shifts the 700 MHz public safety narrowband channels, it must provide a mechanism to cover the costs of reprogramming radios already deployed on those channels, and must accommodate the use of narrowband channels in border regions.

APCO supports a "conditional auction" approach that would provide a means to pay for a national public safety broadband network. The winner of the conditional auction, prior to receiving its license, must first negotiate and enter into a "network sharing" agreement. Public safety must have the final word regarding any network operating in public safety spectrum, and must not be forced into a long-term relationship with a party merely because of its high bid in an auction. The Commission should establish requirements in its rules to ensure that a network resulting from a conditional auction provides sufficient coverage, reliability, quality of service and security for public safety use. Non-public safety access to public safety spectrum must be subject to "ruthless preemption," and public safety must have access to the conditional auction winner's spectrum. There must also be protections to ensure service continuity in the event of business failure. Finally, there must be an accommodation for the deployment of separate state or local systems.

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COMMENTS OF APCO

The Association of Public-Safety Communications Officials-International, Inc. ("APCO") hereby submits the following comments in response to the Commission's *Further Notice of Proposed Rulemaking* ("*FNPRM*"), FCC 07-72 (released April 27, 2007), in the above-captioned proceedings.

APCO is the nation's oldest and largest public safety communications organization. Founded in 1935, APCO has 16,000 members, most of whom are state or local government employees who manage and operate communications systems for police, fire, EMS, forestry conservation, highway maintenance, disaster relief, and other public safety agencies. APCO is the largest FCC-certified frequency coordinator for Part 90, Public Safety Pool channels, and appears regularly before the Commission on a wide variety of public safety communications issues.

APCO is a charter member of the National Public Safety Telecommunications Council ("NPSTC"), and supports NPSTC's separate comments in response to the *FNPRM*. The following comments emphasize and expand upon issues of particular interest to APCO's members.

I. INTRODUCTION

There are many complex issues posed in the *FNPRM*, which was published in the *Federal Register* just 21 days ago, an extremely short comment period relative to the potentially historic nature of this proceeding.[1] That has placed an extraordinary strain on public safety organizations' efforts to develop and support consensus positions. These are issues that would normally be addressed over many months, instead of a matter of weeks. Nevertheless, the issues raised in the *FNPRM* create a one-time opportunity to take dramatic steps to improve public safety communications. Therefore, APCO and its allied organizations in NPSTC have done their best to coalesce around principles and specific forward-looking proposals. We hope that the Commission will also go the extra mile and work with the public safety community and other stakeholders quickly and effectively to forge final rules that address public safety communications requirements without sacrificing core public safety principles.

APCO supports the development of a national public safety broadband network, assuming that there is a realistic model to fund its deployment, that it will meet public safety requirements, and that it will remain under the control of public safety. A public-

[1] The *Further Notice of Proposed Rulemaking* was adopted on Wednesday, April 25, released on Friday, April 27, and published in the *Federal Register* on Wednesday, May 2, commencing a 21-day comment period. Illustrative of the number of issues raised, the term "seek comment" appears nearly 100 times in the Commission's document.

private partnership appears to be the best available method to provide the necessary funding, but such a partnership requires sufficient spectrum resources. Thus a conditioned auction, similar in some respects to that proposed by Frontline Wireless, could provide the path to a national public safety broadband network. This approach will only work if there are strong regulatory protections to ensure public safety retains control over public safety spectrum, and that the network is indeed designed, built, and maintained to serve public safety.

As valuable as a national public safety broadband network will be, it will not replace current public safety land mobile radio systems or frequency allocations. Present day systems provide a quality of service, functionality, coverage, and reliability that a national broadband network will likely require decades to match. In the meantime, and perhaps indefinitely, more traditional radio systems will continue to provide mission-critical public safety communications.

APCO agrees that broadband has great potential, and supports carefully crafted efforts to expedite deployment of a national public safety broadband network. The Commission goes too far, however, in dismissing "wideband" systems as a near-term option for some public safety agencies. With minimal discussion, the Commission tentatively concludes that the 700 MHz public safety, non-narrowband channels should be allocated exclusively for broadband communications.[2] Yet, there remains a need to preserve wideband at least as a "default" technology in some areas. Even the most ambitious public safety broadband proposals will leave some portions of the country unserved for many years, and perhaps indefinitely. There are public safety agencies in

[2] *FNPRM*, at ¶253.

some of those areas that need and have the resources to deploy their own data systems. At least in today's marketplace, wideband technology is significantly less expensive and generally more practical than broadband for sparsely populated areas where relatively few transmitter sites must cover large geographic areas.[3] Therefore, we support the band proposed in the NPSTC comments that identifies specific channels that regions could elect to use for wideband operations, at least until completion of a nationwide broadband public safety network. We suggest a mechanism below to facilitate such wideband operation.[4]

The comments below will address issues in the *FNPRM* regarding the 700 MHz band plan and the conditional auction (a.k.a. "Frontline") proposal.

II. The 700 MHz Band Plan

Several of the 700 MHz band plans discussed in the *FNPRM* would shift the current public safety narrowband channel allotments. We support such a shift, but only if the final band plan addresses (i) a mechanism to reimburse those licensees forced to modify 700 MHz band radios that have already been deployed on 700 MHz channels, [5] and (ii) the Canadian border issue.

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[3] There are also some urban areas where wideband system planning is already well underway and those efforts should be accommodated to the maximum extent possible within the national broadband network.

[4] *See* page 20, *infra*. The same general concept is discussed in the NPSTC comments.

[5] Our understanding is that the radios in question are dual-band 700/800 MHz band radios. Most 700/800 MHz radios that have been sold and deployed have only been programmed to date for 800 MHz channels, and will in any event require reprogramming when the licensee is ready and able to begin 700 MHz operations. However, some licensees have programmed radios for current 700 MHz narrowband channel allocations and begun operations. Those are the radios that would require reprogramming as a direct result of the proposed narrowband channel reallocation. Some modification to base stations may also be required.

The Commission's suggestion in the *FNPRM* that public safety licensees that have already deployed in 700 MHz narrowband channels should absorb the reprogramming costs is utterly unacceptable.[6] The FCC's original 700 MHz public safety spectrum rules encouraged early deployment. All 50 states were granted state-wide geographic licenses without a regional planning requirement and with the hope that operations could begin in areas not impacted by incumbent television stations. Some states, such as Idaho, Ohio, and Virginia, did just as the Commission suggested.[7] They purchased 700 MHz-capable radios and initiated operations, often for "talk-around" or vehicle repeaters, where other appropriate frequencies are unavailable. Such licensees must not be forced to pay a penalty for making use of the spectrum wherever possible as quickly as possible, just as the Commission had urged.

While shifting the narrowband channels may have some benefits for public safety and others, those benefits may not extend for many years, if ever, to the specific agencies forced to modify their narrowband radios. Moreover, while there is some potential benefit to public safety as a whole, there is also a very substantial specific benefit to the licensee of the block of auction (or guard band) spectrum adjacent to the public safety spectrum, as those commercial licensees would be able deploy broadband without the need to protect adjacent narrowband operations. That is why Access Spectrum and Pegasus, the original proponents of the narrowband shift, volunteered from the beginning

[6] *FNPRM* at ¶264.

[7] Some local governments have also initiated 700 MHz narrowband operations where regional plans have been approved by the Commission and the frequencies are not blocked by television stations. *See, e.g.,* Comments of City of Independence, Missouri (filed May 21, 2007).

that they would pay the costs of reprogramming public safety radios.[8] That offer to pay the reconfiguration costs should be clearly set forth as an enforceable obligation under the Commission's order and/or rules resulting from the *FNPRM*.

None of the other funding options suggested by the Commission in the *FNPRM* are viable.[9] The Commission suggests that perhaps the $1 billion interoperability grant program recently established by Congress will provide such funds. However, that program is to promote interoperability by and for public safety, not to subsidize spectrum reconfiguration that benefits commercial licensees. In any event, is unlikely that it or other interoperability grant programs can be stretched and distorted to cover those costs. Nor should that be the case as that would be taking dollars away from agencies with more direct and critical interoperability requirements. Finally, we reject the suggestion in the *FNPRM* that perhaps the national public safety licensee (if formed per the *Ninth NPRM*) should pay those costs, as it is unlikely to have access to significant resources when the narrowband radios need to be reprogrammed.

Another critical requirement for any shift in narrowband public safety channel allocations is the availability of narrowband channels in areas near the Canadian border, *including uniform national mutual aid channels*. As explained in detail in the NPSTC comments, and in the *FNPRM*, channels 64 and 69 will continue to be used for television broadcasting in Canada, limiting the use of that spectrum (770-776/800-806 MHz) in states along the Canadian border.[10] All of the proposals to shift the narrowband channels

[8] This was a key element of the Band Optimization Plan (BOP).

[9] *FNPRM* at ¶265.

[10] Other portions of the 700 MHz band will also continue to be blocked along the border by Canadian television stations.

would move them to 770-776/800-806 MHz, so some adjustment in the band plan is needed to preserve narrowband spectrum in border areas. Proposal 3 in the *FNPRM* (figure 8 at ¶195) offers the best approach for addressing this issue, as it allow border areas access to narrowband channels, including the nationwide mutual aid channels, on what are now TV channels 63 and 68 (which will be cleared of TV stations on both sides of the border).

III. Conditional Auction (a.k.a. "Frontline") Proposal

The Commission seeks comments on a proposal from Frontline Wireless, LLC that the FCC impose conditions on a 10 MHz block of auctioned spectrum (referred to by Frontline as the "E Block"), including a requirement that the auction winner construct a broadband network that includes both the E Block and public safety broadband spectrum, and allows public safety access to the E Block spectrum block on an "emergency" basis. We join with NPSTC in suggesting essential modifications and enhancements to the conditional auction approach. We thank Frontline for its innovative thinking (and note our appreciation to Cyren Call for its earlier contributions), but prefer to describe the concept herein as a "conditional auction" proposal, rather than "the Frontline proposal," so as not to link it to a particular company or its specific proposal.

Before discussing the specifics of the conditional auction approach, we first address the factors that make it a potentially attractive option and issues related to the formation of a national public safety licensee that are necessary for the conditional auction approach to be viable.

A. The Potential Benefits of a Conditional Auction Approach

The conditional auction approach assumes that a block of spectrum will be auctioned with specific conditions, including a requirement that, subject to a "network sharing agreement" with a national public safety licensee, the auction winner will construct a broadband network that incorporates the public safety broadband spectrum and is built to satisfy public safety requirements. Through the national public safety licensee, the network will be available for public safety use on a priority basis. While non-public safety use of the public safety spectrum may be allowed, such non-public safety use would be subject to unconditional preemption. The auctioned spectrum will also be made available to public safety pursuant to specific terms.

The primary benefit of a conditional auction approach is that it could provide the means for constructing a national public safety broadband network. While some local governments may be able to build their own broadband networks, or join with nearby communities to do so, most will lack the funds to deploy such state-of-the-art systems. That could result in a patchwork of networks covering mainly resource-rich jurisdictions, potentially with little or no national interoperability. A national broadband network, in contrast, could provide for nationwide interoperability, substantial cost efficiencies, and more effective and efficient use of scarce radio spectrum.[11] A threshold problem, however, is finding the money to pay for such a national network.

Some suggest that public safety should simply use purely commercial networks for their broadband communications needs, rather than building a network designed

[11] See *Ninth Notice of Proposed Rulemaking in Docket 96-86*, FCC 06-181 (released Dec. 20, 2006) ("*Ninth NPRM*")

around public safety requirements. However, commercial networks will inevitably focus on densely populated areas, leaving out areas that public safety agencies need to reach. Commercial networks are also typically designed with higher potential outage rates than public safety can usually tolerate. Nor are commercial systems designed in most cases to withstand natural disasters to the same degree as a public safety systems. Public safety agencies also need substantial on-demand access to network capacity and user-specific functionalities (such as "one-to-one" and "one-to-many" communications) that are difficult to meet on a commercial network. Moreover, the critical nature of public safety communications is such that agencies are reluctant to place too much dependence on a commercial enterprise that could terminate operations or reduce service quality at any time. [12]

The Commission suggested in the *Ninth NPRM* that there be a "national public safety licensee" that could construct and operate a national public safety broadband network. However, such a national public safety licensee would lack the financial resources to build a network as it will not have the authority to collect taxes or issue municipal bonds, the usual sources of funding for public safety communications systems. Nor is realistic to expect that there will be sufficient federal funding available, and any user fees paid to the national licensee would not be collected until after the network is complete.[13]

The Public Safety Broadband Trust (a.k.a. "Cyren Call") proposal addressed this issue by combining a national public safety licensee with a public-private partnership that

[12] *See also* Separate Statement of Commissioner Michael J. Copps regarding the *FNPRM* (Apr. 25, 2007).

[13] *See* APCO Comments (Feb. 26, 2007) and Reply comments (March 12, 2007) in Response to Ninth NPRM in Docket 96-86.

would develop a joint public safety/commercial network built to public safety requirements. However, the Public Safety Broadband Trust proposal involved a congressionally-mandated allocation of 30 MHz of new spectrum, and would not have involved current public safety spectrum allocations. In contrast, the *Ninth NPRM* suggested the potential for a public-private partnership involving just 12 MHz of non-narrowband public safety spectrum in the 700 MHz band. APCO and many others explained in response to the *Ninth NPRM* that 12 MHz is simply not enough spectrum to satisfy both public safety needs and provide the capacity to justify a viable public-private partnership to pay for the national network. [14]

A conditional auction approach could alleviate those concerns, by requiring the auction winner (*i.e.* the E block licensee) to fund the construction of a national broadband network and by providing public safety agencies with access to up to 10 MHz of additional spectrum though a public-private partnership.

B. The National Public Safety Licensee Component

APCO addressed the national licensee concept in response to the *Ninth NPRM,* and continues to be apprehensive about its viability. APCO is also mindful of the concerns raised by some of its members in the response to the *Ninth NPRM* and elsewhere. However, after careful consideration, APCO believes that the establishment of a national public safety licensee, combined with a properly crafted conditional auction approach, could provide stability, funding, and substantial long term benefits for public safety communications.

[14] *See, e.g.*, Comments of Cyren Call in Response to Ninth NPRM in Docket 96-86 (Feb. 26, 2007).

Therefore, because this process is moving at such an extraordinary pace, APCO has joined with other national public safety organizations to initiate the formation of a legal entity that could serve as the national public safety licensee if the FCC proceeds along those lines. It would be a non-profit corporation, tentatively known as the Public Safety Spectrum Trust Corporation, and led by a board of directors consisting of individuals selected by the nation's leading public safety organizations, each of which has extensive knowledge regarding public safety radios systems and spectrum management.[15] There would also be an advisory committee to the Trust Corporation, consisting of a broad range of organizations that also have an interest in the form and direction of a national broadband public safety network. The national licensee entity would probably require the services of an agent to assist in the wide range of responsibilities thrust upon it, so the licensee entity would be empowered to select such an agent through an open and transparent process. Thus, if the Commission adopts an acceptable conditional auction process, the Public Safety Spectrum Trust Corporation would be positioned to serve as the national public safety licensee.

C. Making the Conditional Auction Approach Work

The conditional auction approach assumes that the auction winner will need to negotiate specific "network sharing" terms and conditions with a national public safety licensee. The success of this approach requires a process to protect public safety interests, and that auction participants have a full understanding of the "conditions" that

[15] As explained in the NPSTC Comments, there would be an initial executive committee of the board of directors, consisting of the directors representing APCO, the International Association of Chiefs of Police, and the International Association of Fire Chiefs.

will be attached to the licensee for which they are vying in the auction. Ideally, the Commission should adopt specific auction rules setting forth detailed requirements for the national public safety network. However, the time frame of this proceeding probably precludes adoption of more than general FCC requirements, which we discuss below. We recommend, therefore, that the national public safety licensee compile a detailed statement of requirements (SOR) or similar document as soon as possible after adoption of the auction rules, and that the SOR be made available to prospective bidders. There should also be sufficient opportunity for preliminary discussions between prospective bidders and the national public safety licensee to further clarify the SOR.

The most critical aspect of any conditional auction approach is to ensure that no matter what, public safety spectrum will remain firmly in the control of the national public safety licensee. Thus, successful completion of a network sharing agreement must be *a condition precedent* to the grant of the license to the auction winner. The auction winner should *not* receive its license and *then* negotiate with public safety, as Frontline initially proposed.

As required by Congress, the FCC has allocated 24 MHz of spectrum in the 700 MHz band for public safety use, not commercial use. Public safety, not a commercial spectrum licensee selected by auction, must be able to determine where and how any network using the public safety spectrum is to be constructed and maintained. Moreover, no commercial entity should be able to gain the right to use public safety spectrum (even on an unconditional preemption basis) without the concurrence of the national public safety licensee.

The success of a public-private partnership for the public safety broadband network deployment requires that both parties enter into the arrangement voluntarily, as "partners." Under no circumstances should public safety be forced into a "partnership" with a commercial entity solely because it was the highest bidder in an auction. The Commission had it right in the *Ninth NPRM,* where it said that the national public safety licensee would have the *option* of entering into a network sharing arrangement.[16] That option is meaningful only if the national public safety licensee has the ability to say "no."

The Commission suggests that if no agreement is reached between the E Block auction winner and the national public safety licensee, then the dispute would be resolved through binding arbitration.[17] We strongly oppose that option as it would also take control of the spectrum out of the hands of the public safety licensee, effectively placing it in the hands of a third party arbitrator. Public safety could be forced into a long-term arrangement governing the use of critical public safety spectrum with an unacceptable party selected solely by auction, and pursuant to terms that may be an anathema to public safety entities.

It has been suggested that the FCC itself should resolve any disputes that arise between the national public safety licensee and the E Block auction winner in the negotiation of a network sharing agreement. While preferable to binding arbitration by a third party, this approach could still force public safety into a long term partnership with an entity that fails to understand public safety needs and obtained its license merely by being the highest bidder.

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[16] *Ninth NPRM* at ¶19.

[17] *FNPRM* at ¶282.

We are mindful of the Commission's concerns in the *FNPRM* about the consequence of a failure of the parties to reach agreement on a network sharing agreement. The best solution would be to re-auction the spectrum (and return the initial auction winner's deposited funds) if no agreement is reached within a specified time-period (perhaps with the benefit of non-binding "mediation'). This avoids the problem of a forced partnership. We urge the Commission to explore how such a re-auction approach could be accommodated within the auction schedule limitations imposed by Congress. We also look forward to reviewing other approaches that may be proposed in this comment cycle. *The key to success is to ensure that public safety, not a commercial auction, decides the fate of public safety spectrum.*

The conditional auction rules must set requirements that are to be part of a network sharing agreement between the auction winner and the public safety licensee. Specific requirements are necessary to ensure that auction participants understand what they are buying, and will not be surprised when faced with the demands of the public safety licensee. Unfortunately, this entire rulemaking process is being conducted in an extremely short time frame, making it difficult to develop comprehensive guidelines. Thus, as described above, there may be a need for the national public safety licensee to develop a SOR or similar document prior to the auction. In any event, we believe that FCC's rules should incorporate the following requirements.

1. *Build-Out Requirements*

The E Block licensee must be required to construct a national broadband network at its own expense. This is an essential element, and a principal reason for our

willingness to support a conditional auction approach and the national public safety licensee concept.

The national broadband network must also be truly "national" and constructed pursuant to an aggressive, but economically viable schedule. APCO supports the proposed build-out schedule set forth in the NPSTC comments, requiring the network to cover 99.3% of the nation's population[18] within 10 years, with aggressive interim benchmarks such as 25% of population within four years and 95% of population within seven years. Strict enforcement of meaningful build-out requirements will be especially important if the auction winner has no existing network resources. Further details regarding the build out should be set forth in a SOR and addressed in the network sharing agreement.

2. *Quality of Service, Reliability, Security, etc.*

The network sharing agreement must contain provisions to address the required levels of service reliability, necessary security levels, system maintenance, redundancy and other critical matters. Unfortunately, the brief comment period in this proceeding has been insufficient for us to provide any further detail on these requirements at this time. As a result, it will be that much more important to ensure that the national public safety licensee will have sufficient capability to define and require the necessary service levels in the network sharing agreement, and that the FCC will stand behind those requirements.

[18] As NPSTC explains, in terms of geography, this equates to 63.5% of the US (including Alaska, Hawaii and Puerto Rico) and 75% of the contiguous 48 states. This effectively covers every county with a population density of over than 5 people per square mile.

3. *Non-Public Safety Access to Public Safety Spectrum*

The commercial licensee's access to public safety spectrum must be subject to unconditional pre-emption. We support the Commission's statement in the *Ninth NPRM* that there must be

> a strict requirement that any commercial use be unconditionally preemptible by the national public safety licensee. Specifically commercial users would be on plain notice that there use may be, without notice, subject to immediate termination at the sole discretion of the national public safety licensee. We propose that there be no conditions placed on the national licensee prior to making a determination to cease secondary commercial use. The national public safety licensee would have the unfettered right, which cannot be compromised or contracted away, to unilaterally determine when a secondary commercial use must be discontinued in the interests of public safety.[19]

This requirement should be set forth in the rules to clarify that it cannot be "compromised or contracted away."

4. *Public Safety Access to Commercial Spectrum Block*

A critical element of the conditional auction is that the auction winner must agree to provide public safety access to its spectrum. The current public safety allocation is insufficient to address all of public safety's requirements, especially during "emergency" operations. Frontline initially proposed that such access be on an "emergency" basis, but did not further define what an emergency is, who would defined it, or how "emergency" access would be implemented. Some may view an emergency as a large scale, relatively rare, event. In reality, much of what a first response agency does on a day-to-day basis involves an "emergency" situation.

[19] *Ninth NPRM* at ¶41.

The FCC should define in its rules that the network sharing agreement must include a provision giving public safety access to as much as 100% of the network. The specific terms should be described in the SOR and determined between the parties in the network sharing agreement.

5. *Protection Against Business Failure*

One of the reasons that public safety has not usually relied upon commercial services for mission critical communication is the potential for the commercial carrier to suddenly terminate service, whether due to normal business cycles, asset (or stock) sales, or bankruptcy. Therefore, it will be imperative that the FCC's rules protect against any such disruption to the network. The FCC's power to reclaim the commercial licensee's spectrum will help, but it is insufficient, as the network must remain fully operational. Fortunately, there is precedent in this area, in Section 214 of the Communications Act that prohibits a common carrier from terminating certain services without Commission consent. As similar rule should apply to the E Block licensee in this context. There may also be a need for a performance bond or other financial security to ensure continuity of service. The network sharing agreement should also include specific provisions regarding transfers and assignments of the E Block license to ensure continuity of service and ongoing adherence to the network sharing agreement and relevant FCC rules.

6. *Accommodation for State/Local Systems*

As discussed above and in the NPSTC comments, there is a need to preserve local options while still pursuing the concept of a national public safety broadband network.

This can best be accomplished by giving the national licensee the authority to exclude certain frequencies (up to 2.25 MHz) from the national sharing agreement in certain geographic areas. The NPSTC comments set forth two methods by which such alternative local networks could be authorized in a specified portion of the 700 MHz public safety band.

The first method involves surveying the fifty-five 700 MHz band regional planning committees (RPCs) and state and local agencies in those regions to determine if there is a desire to use the specified channels for separate systems in the relevant region or a portion thereof. Such systems would operate pursuant to an authorization from the national public safety licensee and would need to comply with appropriate requirements to ensure interoperability with the national broadband network. This initial election would have to occur within a specified time frame to allow for planning of the national network. If local systems are not constructed within a reasonable time frame, the spectrum would be made available for the national network.

Under the second method described in the NPSTC comments, any state or local government agency would be able to construct and deploy its own wideband or broadband system at any time in the specified channel, but the system would be "secondary" to the national broadband network. As with the first method, the "secondary" networks would be authorized and coordinated by the national licensee. The difference is that the spectrum would be relinquished once the national network is built out in the relevant area. The purpose of this second method is to facilitate the

deployment of data systems in areas where the national network may not be deployed for many years. [20]

CONCLUSION

For the reasons set forth above, in the NPSTC Comments, and in APCO's prior comments in the above-captioned proceedings, the Commission should proceed to adopt a band plan that address the costs of shifting narrowband public safety channels and the Canadian border allocations, and should adopt a conditional auction approach with the attributes and protections necessary for the deployment of a national public safety broadband network that preserves public safety control over its spectrum and meets public safety requirements.

Respectfully submitted,

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May 23, 2007

[20] We recommend that in either of these alternative network cases, the local/state public safety operator would need to abide by whatever national roaming mechanism is developed by the national licensee such that outside agencies operating in the service area of the alternative network would have service if the broadband network has not yet been constructed in that service area.